

ORDER NO. 3656

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Priority Mail & First-Class Package Service
Contract 19 (MC2016-142)
Negotiated Service Agreement

Docket No. CP2016-179

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE
NEGOTIATED SERVICE AGREEMENT

(Issued December 9, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail & First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to Priority Mail & First-Class Package Service Contract 19, with Portions Filed Under Seal, December 7, 2016 (Notice). The Amendment is an attachment to the Notice (Amendment).

In Order No. 3342, the Commission approved the Priority Mail & First-Class Package Service Contract 19 negotiated service agreement (Existing Agreement).² On December 7, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. See Notice at 1.

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. *Id.* The Postal Service asserts that the Amendment will not materially affect the cost coverage of Priority Mail & First-Class Package Service Contract 19. *Id.*

II. COMMISSION ANALYSIS

The Commission has reviewed the Notice and the accompanying materials filed under seal.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment replaces section I.G.1 of the Existing Agreement.³ That section governs price calculations. In all other respects, the terms of the Existing Agreement remain unchanged. Notice, Attachment A at 1.

² See Docket Nos. MC2016-142 and CP2016-179, Order Adding Priority Mail & First-Class Package Service Contract 19 to the Competitive Product List, June 3, 2016 (Order No. 3342).

³ Notice, Attachment A at 1; see Docket Nos. MC2016-142 and CP2016-179, Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 19 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, May 20, 2016.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.J.1 of the amended agreement should allow revenue to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁴

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Amendment to the Existing Agreement.

⁴ See Order No. 3342 at 5-6. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

III. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail & First-Class Package Service Contract 19 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary